

CHARTER
OF THE
Town of Lonaconing

ALLEGANY COUNTY, MARYLAND

*As found in the Public Local Laws of Allegany County
1963 Edition, 1973 Supplement, as amended*

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LONACONING

(See note (1))

General Corporate Powers

Section 365. Incorporated; general powers.

The inhabitants of the Town of Lonaconing within the corporate limits legally established from time to time are hereby constituted and continued a body corporate by the name of "The Town of Lonaconing" with all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession, unless the Charter and the corporate existence are legally abrogated. (Res., Feb. 4, 1963, sec. 1.)

Corporate Limits

Section 366. Boundaries.

(a) *Filed.* The courses and distances showing the exact corporate limits of the Town shall be filed at all times with the Clerk of the Circuit Court of Allegany County, the Commissioner of the Land Office and the Director of the Department of Legislative Reference [Services]. In addition, a copy of the courses and distances describing the corporate boundaries shall be on file in the office of the Mayor or of the Town Clerk. All the officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours. The limits of the Town of Lonaconing shall include all the territory within the following boundaries:

(b) *Described.* Beginning at a stone marked C. L., eighteen hundred and ninety, planted against the south side of a large linn tree standing eastward from the large stone stable belonging to the American Coal Company; and running thence first, south twenty-two and one-quarter degrees, east thirty-one and one-tenth perches; two, south seventeen and one-half degrees, east seventy-two and eight-tenths perches to the centre of the George's Creek and Cumberland Railroad Company's track in the centre of a culvert under said railroad track; then three, north sixty-five degrees, east fifteen and eight-tenths perches to a point on steep bank about two perches west of Jackson Run, then down, along and in said run; fourth, north seven and three-quarter degrees, east forty-eight perches to east side of said Jackson Run; fifth, north fifty and one-quarter degrees, west eighteen and two-tenths perches to west side of said run; sixth, north four degrees, west eleven and three-tenths perches along west side of said run; seventh, north sixty-four and one-half degrees, west seven and fifty-six one-hundredths perches; thence eighth, north two and one-half degrees, west seventeen and nine-tenths perches; ninth, north fifteen and one-half degrees, west fifteen and three-tenths perches to a point in the aforesaid run near Mrs. Comb's house; tenth, north six and one-half degrees, east seven and

three-tenths perches to west side of said run at north end of bridge over said run near Comb's store building; thence eleventh, south seventy-four and one-half degrees, east seven and one-tenth perches; twelfth, north eleven degrees, east fourteen perches; thirteenth, north eight and one-half degrees, east seventy-six and three-tenths perches to a point north fifty-four degrees, east one and eight hundredths perches from the northeast corner of the New Central Coal Company's big vein stable; thence fourteenth, north sixty-five and three-quarter degrees, west eleven perches to a point on bank on the east side of George's Creek; then up in said creek, fifteenth, north five degrees, west twenty-one and one-half perches; sixteenth, north, thirty-eight degrees, east thirty-two and eight-tenths perches to west side of said creek at west end of foot bridge over said creek and nearly in front of the new brick public school building; thence upon west side of said creek, seventeenth, north sixty-one degrees, east thirty-four and seven-tenths perches; eighteenth, north thirty-seven and one-half degrees, east twenty-four and one-fourth perches; nineteenth, north three and one-fourth degrees, west twenty-four and fifty-four one hundredths perches to a point on west side of said creek north of the county road bridge over said creek; thence, twentieth, north fifty-six and one-half degrees, west fifteen and one-fourth perches to a point in bed of old furnace railroad and with it; twenty-first, south forty-three and three-quarter degrees, west fifty-five and two-tenths perches; then twenty-second, south fifty-nine and three-quarter degrees, west sixty and three-tenths perches to a large rock, then twenty-third, north sixty-six and three-quarter degrees, west sixteen perches; twenty-fourth, north forty-three and one-half degrees, west twenty-two and one-tenth perches near a white oak tree on west side of Koontz' Run, then across Koontz' Run; twenty-fifth, south fifty-six and one-half degrees, west nineteen and one-tenth perches to a post in front of fence of Charles Weisenthal's house; twenty-sixth, south sixty-nine degrees, west ten and seven-tenths perches; twenty-seventh, south thirty-five and three-quarter degrees, east forty-two perches to a point in fence of Castle school building; then twenty-eighth, south forty-five and three-quarter degrees, west twenty-four and one-half perches to the southwest corner of Samuel Barber's, Sr., fence on Church Hill; twenty-ninth, south forty and three-quarter degrees, east fifteen and four-tenths perches; thirtieth, south twenty degrees, east twenty-eight and eight-tenths perches to south side of county road; thence across George's Creek and Cumberland and Pennsylvania Railroad; thirty-one, south twenty-nine degrees, east thirty-one perches; thirty-second, south thirty-three and one-half degrees, west ten and nine-tenths perches to the corner of A. Jackson Clark's fence; and with it thirty-third, south twenty-one and one-fourth degrees, east twenty-eight and two-tenths perches; then thirty-fourth, north sixty-nine and one-half degrees, east seven and eighty-eight one-hundredths perches to southeast corner of John Ricker's lot; then thirty-fifth, south seventeen degrees, east sixteen and one-half perches to the place of beginning. (Res., Feb. 4, 1963, sec. 2.)

The Council

Section 367. Number; selection; term.

All legislative powers of the town shall be vested in a Council consisting of a Mayor and four Councilmen who shall be elected as hereinafter provided and who shall hold office for a term of two years or until the succeeding Council takes office. The regular term of Mayor and

Councilmen shall expire on the first Monday of June in every odd number year. The Mayor and Councilmen holding office on March 26, 1963, shall continue to hold office for the term for which they were elected and until the succeeding Council takes office under the provisions of this Charter. (Res., Feb. 4, 1963, sec. 3.)

Section 368. Qualifications.

Councilmen shall have resided in the town for at least one year immediately preceding their election and shall be qualified voters of the town. (Res., Feb. 4, 1963, sec. 4.)

Section 369. Salaries.

Each Councilman shall receive an annual salary which shall be equal for all Councilmen and shall be as specified from time to time by an ordinance passed by the Council in the regular course of its business; provided, however, that the salary specified at the time any Council takes office shall not be changed during the period for which that Council was elected. The ordinance making any change in the salary paid to the several Councilmen, either by way of increase or decrease, shall be finally ordained prior to the municipal election for the members of the next succeeding Council and shall take effect only as to the members of the next succeeding Council. (Res., Feb. 4, 1963, sec. 5.)

Section 370. Meetings.

The newly elected Council shall meet at 8:00 p.m. on the first Monday of June following its election for the purpose of organization, after which the Council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. Special meetings shall be called by the Clerk-Treasurer upon the request of the Mayor or a majority of the members of the Council. All meetings of the Council shall be open to the public, and the rules of the Council shall provide that residents of the town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question. (Res., Feb. 4, 1963, sec. 6.)

Section 371. Judge of qualifications of members.

The Council shall be the judge of the election and qualification of its members. (Res., Feb. 4, 1963, sec. 7.)

Section 372. President.

The Mayor shall serve as president of the Council. The Mayor may take part in all discussions and may vote on all matters coming before the Council. The Council shall elect a Vice-President of the Council from among its members who shall act as President of the Council in the absence of the President of the Council. (Res., Feb. 4, 1963, sec. 8.)

Section 373. Quorum.

A majority of the members of the Council shall constitute a quorum for the transaction of business, but no ordinance shall be approved nor any other action taken without the favorable votes of a majority of the whole number of members elected to the Council. (Res., Feb. 4, 1963, sec. 9.)

Section 374. Procedure.

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action of any question, resolution, or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection. (Res., Feb. 4, 1963, sec. 10.)

Section 375. Vacancies.

Vacancies in the Council shall be filled as provided in Section 398 of this subtitle. (Res., Feb. 4, 1963, sec. 11.)

Section 376. Ordinances.

No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency the above requirement may be suspended by the affirmative votes of four members of the Council. Every ordinance, unless it be passed as an emergency ordinance, shall become effective at the expiration of twenty calendar days following approval by the Council. A fair summary of every ordinance shall be published at least once in a newspaper or newspapers having general circulation in the municipality. An emergency ordinance shall become effective on the date specified in the ordinance, but no ordinance shall become effective until approved by the Council. (Res., Feb. 4, 1963, sec. 12.)

Section 377. Same; files.

Ordinances shall be permanently filed by the Clerk–Treasurer and shall be kept available for public inspection. (Res., Feb. 4, 1963, sec. 13.)

The Mayor

Section 378. Selection; term.

The Mayor shall be elected as hereinafter provided and shall hold office for a term of two years or until his successor is elected and qualified. The newly elected mayor shall take office on the first Monday of June in every odd-numbered year. The Mayor holding office on March 26,

1963, shall continue to hold office for the term for which he was elected and until his successor takes office under the provisions of this Charter. (Res., Feb. 4, 1963, sec. 14.)

Section 379. Qualifications.

The Mayor must have resided in the town for at least one year immediately preceding his election and must be a qualified voter of the town. (Res., Feb. 4, 1963, sec. 15.)

Section 380. Salary.

The Mayor shall receive an annual salary as set from time to time by an ordinance passed by the Council in the regular course of business. Provided, however, that no change shall be made in the salary for any Mayor during the term for which he was elected. The ordinance making any change in the salary paid to the Mayor, either by way of increase or decrease, shall be finally ordained prior to the municipal election to elect the next succeeding Mayor, and shall take effect only as to the next succeeding Mayor. (Res., Feb. 4, 1963, sec. 16.)

Section 381. Powers; duties.

(a) *Executive duties.* The Mayor shall see that the ordinances of the town are faithfully executed and shall be the Chief Executive Officer, and the head of the administrative branch of the town government.

(b) *Appointments.* The Mayor, with the approval of the Council, shall appoint the heads of all offices, departments, and agencies of the town government as established by this subtitle or by ordinance. All office, department, and agency heads shall serve at the pleasure of the Mayor. All subordinate officers and employees of the offices, departments, and agencies of the town government shall be appointed and removed by the Mayor, in accordance with rules and regulations in any merit system which may be adopted by the Council.

(c) *Reports.* The Mayor each year shall report to the Council the condition of municipal affairs and make such recommendations as he deems proper for the public good and the welfare of the town.

(d) *Finances.* The Mayor shall have complete supervision over the financial administration of the town government. He shall prepare or have prepared annually a budget and submit it to the Council. He shall supervise the administration of the budget as adopted by the Council. He shall supervise the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(e) *Other powers and duties.* The Mayor shall have such other powers and perform such other duties as may be prescribed by this subtitle or as may be required of him by the Council, not inconsistent with this subtitle. (Res., Feb. 4, 1963, sec. 17.)

General Powers

Section 382. Enumeration.

(1) *General.* The Council shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this subtitle as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights, and privileges; for the preservation of peace and good order, for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the town and visitors thereto and sojourners therein.

(2) *Specific.* The Council shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this State, for the following specific purposes:[.]

(3) *Advertising.* To provide for advertising for the purposes of the town, for printing and publishing statements as to the business of the town.

(4) *Aisles.* To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

(5) *Amusements.* To provide in the interest of the public welfare for licensing, regulating, or restraining theatrical or other public amusements.

(6) *Appropriations.* To appropriate municipal monies for any purpose within the powers of the Council.

(7) *Auctioneers.* To regulate the sale of all kinds of property at auction within the town and to license auctioneers.

(8) *Band.* To establish a municipal band, symphony orchestra or other musical organization, and to regulate by ordinance the conduct and policies thereof.

(9) *Billboards.* To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the City [Town], the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the town.

(10) *Bridges.* To erect and maintain bridges.

(11) *Buildings.* To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the town, and to grant building permits for the same; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation

thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down.

(12) *Cemeteries.* To regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries.

(13) *Codification.* To provide for the codification of all ordinances which have been or may hereafter be passed.

(14) *Community services.* To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the town.

(15) *Cooperative activities.* To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(16) *Curfew.* To prohibit the youth of the town from being in the streets, lanes, alleys, or public places at unreasonable hours of the night.

(17) *Dangerous conditions.* To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(18) *Departments.* To create, change, and abolish offices, departments, or agencies, other than the offices, departments and agencies established by this subtitle; to assign additional functions or duties to offices, departments, or agencies established by this charter, but not including the power to discontinue or assign to any other office, department or agency any function or duty assigned by this subtitle to a particular office, department, or agency.

(19) *Disorderly houses.* To suppress bawdy houses, disorderly houses and houses of ill fame.

(20) *Dogs.* To regulate the keeping of dogs in the town and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of the same; to provide for the disposition of homeless dogs and dogs on which no license fee or taxes are paid.

(21) *Elevators.* To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(22) *Explosives.* To regulate or prevent the storage of gunpowder, oil, or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives, or any other similar things which may endanger persons or property.

(23) *Filth.* To compel the occupant of any premises, building or outhouse situated in the town, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.

(24) *Finances.* To levy, assess, and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the town.

(25) *Fire.* To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire-hazard regulations are met; to install and maintain fire plugs where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the town.

(26) *Food.* To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

(27) *Franchises.* To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the town, subject, however, to the limitations and provisions of Article 23 of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty years.

(28) *Gambling.* To restrain and prohibit gambling.

(29) *Garbage.* To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal.

(30) *Grants-in-aid.* To accept gifts and grants of Federal or of State funds from the Federal or State governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(31) *Hawkers.* To license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the town, and to revoke such licenses for cause.

(32) *Health.* To protect and preserve the health of the town and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the town; to establish quarantine regulations and to authorize the removal and confinement of persons having contagious or infectious diseases; to

prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health; provided, that nothing herein shall be construed to affect in any manner any of the powers and duties of the State Board of Health, the County Board of Health, or any public general or local law relating to the subject of health.

(33) *House numbers.* To regulate the numbering of houses and lots and to compel owners to renumber the same or in default thereof to authorize and require the same to be done by the town at the owner's expense, such expense to constitute a lien upon the property collectible as tax monies.

(34) *Jail.* To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the town or to use the County jail for such purpose.

(35) *Licenses.* Subject to any restriction imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this subtitle.

(36) *Liens.* To provide that any valid charges, taxes or assessments made against any real property within the town shall be liens upon such property, to be collected as municipal taxes are collected.

(37) *Lights.* To provide for the lighting of the town.

(38) *Livestock.* To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs or other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(39) *Markets.* To obtain by lease or rent, own, construct, purchase, operate, and maintain public markets within the town.

(40) *Minor privileges.* To regulate or prevent the use of public ways, sidewalks, and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements, and display of goods, wares, and merchandise.

(41) *Noise.* To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns.

(42) *Nuisances.* To prevent or abate by appropriate ordinance all nuisances in the town which are so defined at common law, by this subtitle, or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the

public comfort or health. In this connection the town may regulate, prohibit, control the location of, or require the removal from the town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitation.

(43) *Obstructions.* To remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the town.

(44) *Parking facilities.* To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate, and maintain parking lots and other facilities for off street parking.

(45) *Parking meters.* To install parking meters on the streets and public places of the town in such places as they shall by ordinance determine, and by ordinance to prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the State Roads Commission of Maryland must first be approved by the Commission.

(46) *Parks and recreation.* To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the town.

(47) *Police force.* To establish, operate, and maintain a police force. All town policemen shall, within the municipality, have the powers and authority of constables in this State.

(48) *Police powers.* To prohibit, suppress, and punish within the town all vice, gambling, and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity and drunkenness.

(49) *Property.* To acquire by conveyance, purchase or gift, real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; and to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the town.

(50) *Quarantine.* To establish quarantine regulations in the interests of the public health.

(51) *Regulations.* To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this subtitle.

(52) *Sidewalks.* To regulate the use of sidewalks and all structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions; to prescribe hours for cleaning sidewalks.

(53) *Sweepings.* To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, or other unwholesome materials into any public way or onto any public or private property in the town.

(54) *Taxicabs.* To license, tax and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters and expressmen, and all other persons pursuing like occupations.

(55) *Vehicles.* To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(56) *Voting machines.* To purchase, lease, borrow, install, and maintain voting machines for use in town elections.

(57) *Zoning.* To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland, subject, however, to the limitations and provisions of said Article.

(58) *Saving clause.* The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned. (Res., Feb. 4, 1963, sec. 18.)

Section 383. Exercise of powers.

For the purpose of carrying out the powers granted in this subtitle, the Council may pass all necessary ordinances. All the powers of the town shall be exercised in the manner prescribed by this subtitle, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance. (Res., Feb. 4, 1963, sec. 19.)

Section 384. Enforcement.

To ensure the observance of the ordinances of the town, the Council shall have the power to provide that violation thereof shall be a misdemeanor and shall have the power to affix thereto penalties of a fine not exceeding one hundred dollars (\$100.00) or imprisonment for not exceeding thirty days, or both such fine and imprisonment. Any person subject to any fine, forfeiture, or penalty by virtue of any ordinance passed under the authority of this subtitle shall have the right of appeal within ten days to the Circuit Court of the county in which the fine, forfeiture, or penalty was imposed. The Council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (Res., Feb. 4, 1963, sec. 20.)

Registration, Nominations, and Elections

Section 385. Voters.

Any person shall be eligible to register as a voter in municipal elections who is a citizen of the United States, a resident of the town and at least eighteen years of age at the time of the next municipal election. (Res., Feb. 4, 1963, sec. 21; Char. Amend. Res. 5, 3–5–73; Res. No. 76–1, 9–21–76.)

Section 386. Board of Supervisors.

There shall be a Board of Supervisors of Elections, consisting of three members who shall be appointed by the Mayor with the approval of the Council on or before the first Monday in March in every odd-numbered year. The terms of members of the Board of Supervisors of Elections shall begin on the first Monday in March in the year in which they are appointed and shall run for two years. Members of the Board of Supervisors of Elections shall be qualified voters of the town and shall not hold or be candidates for any elective office during their term of office. The board shall appoint one of its members as Chairman. Vacancies on the board shall be filled by the Mayor with the approval of the Council for the remainder of the unexpired term. The compensation of the members of the board shall be determined by the Council. The Board of Supervisors of Elections shall supervise all town elections. (Res., Feb. 4, 1963, sec. 22; Res. No. 76–1, 9–21–76.)

Section 387. Same; removal.

Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Council if he so requests within ten days after receiving the written copy of the charges against him. (Res., Feb. 4, 1963, sec. 23.)

Section 388. Duties of town clerk.

The town clerk shall be in charge of all books and papers pertaining to the registration of voters. He shall carefully keep and preserve the same, and do all things necessary and proper to carry out his duties under this subtitle. (Res., Feb. 4, 1963, sec. 24; Res. No. 76–1, 9–21–76.)

Section 389. Manner of registration; recordation of voter's name in registration book; preservation of application forms; when registration book closed.

(a) Any applicant for registration as a voter in a municipal election in the town shall present himself at the office of the town clerk, at any time during the regular business hours of the town clerk. The town clerk shall by suitable questions determine if the said applicant satisfies the requirements to be a qualified voter in the town, as set out in this subtitle, the answer to be given under oath. The answers of the applicant shall be recorded on a form designed and kept by the town clerk for such purpose, and the applicant shall sign his name on such form.

(b) If the said applicant satisfies the requirements of this subtitle for registration as a voter of the town, the town clerk shall accept his registration. Thereafter, as soon as possible, the town clerk shall record the registrant's name and such other data as necessary in the registration book. The original form on which the applicant's answers were recorded shall be filed alphabetically in a permanent file.

(c) The town clerk shall not accept any such registration or change in registration during the period extending from twenty days before the municipal election to seven days after the municipal election, nor within the period extending from seven days before to seven days after any municipal special election. (Res., Feb. 4, 1963, sec. 25; Res. No. 76-1, 9-21-76.)

Section 390. Removal of persons from the registration book.

Registration shall be permanent, and no person shall be entitled to vote in town elections unless he is registered. It shall be the duty of the Town Clerk to keep the registration lists up to date by striking from the lists persons known to have died or to have moved out of the town. The Council is hereby authorized and directed, by ordinance, to adopt and enforce any provisions necessary to establish and maintain a system of permanent registration, and to provide for a re-registration when necessary. (Res., Feb. 4, 1963, sec. 26; Res. No. 76-1, 9-21-76.)

Section 391. Same; appeals.

If any person shall feel aggrieved by the action of the Town Clerk in refusing to register or in striking off the name of any person, or by any other action, such person may appeal to the Council. Any decision or action of the Council upon such appeals may be appealed to the Circuit Court for the county within thirty days of the decision or action of the Council. (Res., Feb. 4, 1963, sec. 27; Res. No. 76-1, 9-21-76.)

Section 392. Nominations.

Persons may be nominated for elective office in the town by filing a certificate of nomination at the office of the Town Clerk on or before the second Monday in April next preceding the town election. No person shall file for nomination to more than one elective town public office or hold more than one elective town public office at any one time. (Res., Feb. 4, 1963, sec. 28; Res. No. 76-1, 9-21-76.)

Section 393. Elections.

On the second Tuesday in May in every odd-numbered year, the qualified voters of the town shall elect one person as Mayor and four persons as Councilmen to serve for terms of two years. (Res., Feb. 4, 1963, sec. 29.)

Section 394. Same; conduct.

It shall be the duty of the Council to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this subtitle, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open from 7:00 A.M. to 7:00 P.M. on election days or for longer hours if the Council requires it. (Res., Feb. 4, 1963, sec. 30; Res. No. 76-1, 9-21-76.)

Section 395. Special elections.

All special town elections shall be conducted in the same manner and with the same personnel, as far as practicable, as regular town elections. (Res., Feb. 4, 1963, sec. 31; Res. No. 76-1, 9-21-76.)

Section 396. Votes counted.

Immediately after the closing of the polls, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Clerk-Treasurer of the town who shall record the result in the minutes of the Council. The candidate for mayor with the highest number of votes in the general election shall be declared elected as Mayor. The four candidates for Councilman with the highest number of votes in the general election shall be declared elected as Councilmen. (Res., Feb. 4, 1963, sec. 32.)

Section 397. Ballots preserved.

All ballots used in any town election shall be preserved for at least six months from the date of the election. (Res., Feb. 4, 1963, sec. 33.)

Section 398. Vacancies.

In case of a vacancy on the Council for any reason, the Council shall elect some qualified person to fill such vacancy for the unexpired term. In case of a vacancy in the office of Mayor for any reason, the Council shall elect some qualified person to fill the vacancy for the remainder of the unexpired term. Any vacancies on the Council or in the office of Mayor shall be filled by the favorable votes of a majority of the remaining members of the Council. The results of any such vote shall be recorded in the minutes of the Council. (Res., Feb. 4, 1963, sec. 34.)

Section 399. Regulation and control.

The Council shall have the power to provide by ordinance in every respect not covered by the provisions of this Charter for the conduct of registration, nomination and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. (Res., Feb. 4, 1963, sec. 35.)

Section 400. Penalties.

Any person who (1) fails to perform any duty required of him under the provisions of this subtitle or any ordinances passed thereunder, (2) in any manner wilfully or corruptly violates any of the provisions of this subtitle or any ordinances passed thereunder, or (3) wilfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or town election, shall be deemed guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment. (Res., Feb. 4, 1963, sec. 36.)

Section 400A. Repeal of other sections.

Any section or sections of the Charter of the Town of Lonaconing which are inconsistent with these amendments are hereby repealed. (Res. No. 76-1, 9-21-76.)

Finance

Section 401. Clerk-Treasurer.

There shall be a Clerk-Treasurer appointed by the Mayor with the approval of the Council. He shall serve at the pleasure of the Mayor. His compensation shall be determined by the Council. The Clerk-Treasurer shall be the chief financial officer of the town. The financial powers of the town, except as otherwise provided by this subtitle, shall be exercised by the Clerk-Treasurer under the direct supervision of the Mayor. (Res., Feb. 4, 1963, sec. 37.)

Section 402. Same; powers, duties.

(a) *Duties.* Under the supervision of the Mayor, the Clerk-Treasurer shall have the authority and shall be required to:

(b) *Budget.* Prepare at the request of the Mayor an annual budget to be submitted by the Mayor to the Council.

(c) *Expenditures.* Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.

(d) *Accounts.* Maintain a general accounting system for the town in such form as the Council may require, not contrary to State law.

(e) *Report.* Submit at the end of each fiscal year, and at such other times as the Council may require, a complete financial report to the Council through the Mayor.

(f) *Assessments.* Ascertain that all taxable property within the town is assessed for taxation.

(g) *Collections.* Collect all taxes, special assessments, license fees, liens, and all other revenues (including utility revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.

(h) *Custody of funds.* Have custody of all public moneys, belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.

(i) *Other duties.* Do such other things in relation to the fiscal or financial affairs of the town as the Mayor or the Council may require or as may be required elsewhere in this subtitle. (Res., Feb. 4, 1963, sec. 38.)

Section 403. Same; bond.

The Clerk–Treasurer shall provide a bond with such corporate surety and in such amount as the Council by ordinance may require. (Res., Feb. 4, 1963, sec. 39.)

Section 404. Fiscal year.

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall constitute the tax year, the budget year, and the accounting year. (Res., Feb. 4, 1963, sec. 40.)

Section 405. Budget.

The Mayor, on such date as the Council by ordinance shall determine, but at least thirty–two days before the beginning of any fiscal year, shall submit a budget to the Council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the Clerk–Treasurer, open to public inspection by anyone during normal business hours. (Res., Feb. 4, 1963, sec. 41.)

Section 406. Same; adoption.

Before adopting the budget the Council shall hold a public hearing thereon after two weeks' notice thereof in some newspaper or newspapers having general circulation within the municipality. The Council may insert new item [items] or may increase or decrease the items of the budget. Where the Council shall increase the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to such total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the Council shall be necessary for adoption. (Res., Feb. 4, 1963, sec. 42.)

Section 407. Appropriations.

No public money may be expended without having been appropriated by the Council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. (Res., Feb. 4, 1963, sec. 43.)

Section 408. Transfer of funds.

Any transfer of funds between major appropriations for different purposes must be approved by the Council before becoming effective. (Res., Feb. 4, 1963, sec. 44.)

Section 409. Over-expenditures forbidden.

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this subtitle. Any contract, verbal or written, made in violation of this subtitle shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law. (Res., Feb. 4, 1963, sec. 45.)

Section 410. Appropriations lapse.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year. (Res., Feb. 4, 1963, sec. 46.)

Section 411. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Clerk-Treasurer and shall be countersigned by the Mayor. (Res., Feb. 4, 1963, sec. 47.)

Section 412. Taxable property.

All real property and all tangible personal property within the corporate limits of the town, or personal property which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for State and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any Act of the General Assembly. (Res., Feb. 4, 1963, sec. 48.)

Section 413. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year. (Res., Feb. 4, 1963, sec. 49.)

Section 414. Notice of tax levy.

Immediately after the levy is made by the Council in each year, the Clerk–Treasurer shall give notice of the making of the levy by posting a notice thereof in some public place or places in the town. He shall make out and mail or deliver in person to each taxpayer or his agent at his last known address a bill or account of the taxes due from him. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this Charter all taxes levied on his property. (Res., Feb. 4, 1963, sec. 50.)

Section 415. When taxes overdue.

The taxes provided for in Section 413 of this subtitle shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the rate of one-half of one per centum (0.5%) for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in Section 416. (Res., Feb. 4, 1963, sec. 51.)

Section 416. Tax Sales.

A list of all property on which the town taxes have not been paid and which are in arrears as provided by Section 415 of this subtitle shall be turned over by the Clerk–Treasurer to the official of Allegany County responsible for the sale of tax delinquent property as provided in State law or public local law. All property listed thereon shall if necessary be sold for taxes by this county official in the manner prescribed by State law or public local law. (Res., Feb. 4, 1963, sec. 52.)

Section 417. Fees.

All fees received by an officer or employee of the town government in his official capacity shall belong to the town government and be accounted for to the town. (Res., Feb. 4, 1963, sec. 53.)

Section 418. Audits.

The financial books and accounts of the town shall be audited annually in a manner prescribed by the Council. (Res., Feb. 4, 1963, sec. 54.)

Section 419. Tax anticipation borrowing.

During the first six months of any fiscal year, the town shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year, and to issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which such notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The Council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes. (Res., Feb. 4, 1963, sec. 55.)

Section 420. Borrowing power.

(a) The town shall have the power to borrow money for any proper public purpose and to evidence such borrowing by the issue and sale of its general obligation bonds, notes, or other certificates of indebtedness in the manner prescribed in Section 420(b).

(b) (1) Bonds, notes, or other certificates of indebtedness of the town may be sold for any public purpose by private negotiated sale without advertisement or publication of notice of sale or at public sale after solicitation of competitive bids, as determined by the resolution or ordinance authorizing the issuance of the bonds, notes, or other certificates of indebtedness.

(2) (i) Any public sale of bonds, notes, or other certificates of indebtedness of the town may be held only after 1 or more insertions of a notice of the sale in either a newspaper of general circulation in the town or a publication having a circulation primarily among the investment and financial community.

(ii) The first insertion of the notice of sale shall be published at least 10 days before the date fixed for the sale.

(3) (i) Bonds, notes, or other certificates of indebtedness issued under this section may be sold or redeemed for a price or prices which may be at, above, or below the par value of the bonds, notes, or other certificates of indebtedness, as provided in the authorizing ordinance.

(ii) The resolution or ordinance that authorizes the bonds, notes, or other certificates of indebtedness may provide for prior redemption of the bonds, notes, or other certificates of indebtedness.

(iii) Bonds, notes, or other certificates of indebtedness of the town may be issued, sold, and delivered on such terms and conditions, including fixed or variable rate or rates of interest or method of determining interest rate or rates, as provided in the authorizing resolution or ordinance.

(4) Bonds, notes, or other certificates of indebtedness of the town may be issued for either cash or other valuable consideration.

(5) The official signatures and seals affixed to any bonds, notes, or other certificates of indebtedness of the town may be imprinted in facsimile.

(6) The town may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of or as security for the bonds, notes, or other certificates of indebtedness and for securing any tender option granted to holders.

(c) Any ordinance authorizing the issuance of bonds, notes or other certificates of indebtedness of the town shall be enacted pursuant to the procedure set out in Section 376 for ordinances of the town. (Res., Feb. 4, 1963, sec. 56; Res. 1A-93, 12-22-92.)

Section 421. Payment of indebtedness.

The power and obligation of the town to pay any and all bonds, notes, or other evidences of indebtedness issued by it shall be unlimited, and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance authorizing their issuance. (Res., Feb. 4, 1963, sec. 57.)

Section 422. Previous issues.

All bonds, notes, or other evidences of indebtedness validly issued by the town previous to March 26, 1963, and all ordinances passed concerning them are hereby declared to be valid, legal, and binding and of full force and effect as if herein fully set forth. (Res., Feb. 4, 1963, sec. 58.)

Section 423. Purchases; contracts.

All purchases and contracts for the town government shall be made by the Clerk-Treasurer. The Council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements, or contractual service involving more than ten thousand dollars (\$10,000.00), shall be made on written contract. The Clerk-Treasurer shall be required to advertise for sealed bids in such manner as may be prescribed by ordinance, for all such written contracts. Such written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion and responsibility of bidders being considered. All such written contracts shall be approved by the Council before becoming effective. The Clerk-Treasurer shall have the right to reject all bids and readvertise. The town at any time in its discretion may employ its own forces

for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties, and conditions as the town may require. (Res., Feb. 4, 1963, sec. 59; Res. No. 78-2, 6-5-78; Res. No. 89-1, July 25, 1989.)

Personnel

Section 424. Clerk to Council.

The Clerk-Treasurer shall serve as Clerk to the Council. He shall attend every meeting of the Council and keep a full and accurate account of the proceedings of the Council. He shall keep such other records and perform such other duties as may be required by this subtitle or the Council. (Res., Feb. 4, 1963, sec. 60.)

Section 425. Town attorney.

The Mayor with the approval of the Council may appoint a Town Attorney. The Town Attorney shall be a member of the bar of the Maryland Court of Appeals. The Town Attorney shall be the legal adviser of the town and shall perform such duties in this connection as may be required by the Council or the Mayor. His compensation shall be determined by the Council. The town shall have the power to employ such legal consultants as it deems necessary from time to time. (Res., Feb. 4, 1963, sec. 61.)

Section 426. Other personnel.

The town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this subtitle or other State law and to operate the town government. (Res., Feb. 4, 1963, sec. 62.)

Section 427. Merit system.

The town may provide by ordinance for a merit system for employees of the town. (Res., Feb. 4, 1963, sec. 63.)

Section 428. Retirement systems.

The town shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the town. (Res., Feb. 4, 1963, sec. 64.)

Section 429. Employees; compensation.

The compensation of all officers and employees of the town shall be set from time to time by an ordinance passed by the Council, subject to the restrictions imposed upon establishing the salaries of the Councilmen and Mayor. (Res., Feb. 4, 1963, sec. 65.)

Section 430. Same; benefit programs.

The town is authorized and empowered, by ordinance, to provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and to expend public monies of the town for such programs. (Res., Feb. 4, 1963, sec. 66.)

Public Ways and Sidewalks

Section 431. Public ways.

The term “public ways” as used in this subtitle shall include all streets, avenues, roads, highways, public thoroughfares, lanes, and alleys. (Res., Feb. 4, 1963, sec. 67.)

Section 432. Same; control.

The town shall have control of all public ways in the town except such as may be under the jurisdiction of the Maryland State Roads Commission. Subject to the laws of the State of Maryland and this subtitle, the town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the town. (Res., Feb. 4, 1963, sec. 68.)

Section 433. Same; powers.

- (a) *Powers.* The town shall have the power:
- (b) *Construction.* To establish, regulate, and change from time to time the grade lines, width, and construction materials of any town public way or part thereof, bridges, curbs, and gutters.
- (c) *New public ways.* To grade, lay out, construct, open, extend, and make new town public ways.
- (d) *Repairs.* To grade, straighten, widen, alter, improve, or close up any existing town public way or part thereof.
- (e) *Paving.* To pave, surface, repave, or resurface any town public way or part thereof.
- (f) *Curbs.* To install, construct, reconstruct, repair, and maintain curbs and/or gutters along any town public way or part thereof.

- (g) *Bridges.* To construct, reconstruct, maintain, and repair bridges.
- (h) *Names.* To name town public ways.
- (i) *Plans.* To have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof. (Res., Feb. 4, 1963, sec. 69.)

Section 434. Sidewalks.

- (a) *Powers.* The town shall have the power:
- (b) *Construction.* To establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.
- (c) *Work.* To grade, lay out, construct, reconstruct, pave, repave, repair, extend, or otherwise alter sidewalks on town property along any public way or part thereof.
- (d) *Obstructions.* To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, and other obstructions.
- (e) *Cost.* To require and order the owner of any property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law. (Res., Feb. 4, 1963, sec. 70.)

Water and Sewers

Section 435. Powers.

- (a) *Listed.* The town shall have the power:
- (b) *Maintain.* To construct, operate and maintain a water system and water plant.
- (c) *Sewerage system.* To construct, operate, and maintain a sanitary sewerage system and a sewage treatment plant.
- (d) *Storm water system.* To construct, operate, and maintain a storm water drainage system and storm water sewers.
- (e) *Installations.* To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above plants and systems.

(f) *Surveys.* To have surveys, plans, specifications, and estimates made for any of the above plants and systems or parts thereof or the extension thereof.

(g) *Other powers.* To do all things it deems necessary for the efficient operation and maintenance of the above plants and systems. (Res., Feb. 4, 1963, sec. 71.)

Section 436. Structures in public ways.

Any public service corporation, company, or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe, or other structure in the public ways of the town, shall submit plans to the town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company, or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe, or other structure interferes with the operation of the water, sewerage, or storm water systems, the town may order it removed. (Res., Feb. 4, 1963, sec. 72.)

Section 437. Obstructions.

All individuals, firms, or corporations having mains, pipes, conduits, or other structures, in, on, or over any public way in the town or in the county which impede the establishment, construction, or operation of any town sewer or water main shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the provisions of this section, the town may use its condemnation powers provided in Section 452. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (Res., Feb. 4, 1963, sec. 73.)

Section 438. County public ways.

The town may enter upon or do construction in, on, or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the water system, water plant, sanitary sewerage system, sewage treatment plant, or storm water sewers provided for in this subtitle. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before. (Res., Feb. 4, 1963, sec. 74.)

Section 439. Connections.

The town shall provide a connection with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared ready for operation by the town, all abutting property owners after reasonable notice shall connect all fixtures with the water or sewer main. The town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sinkdrains, and privies be abandoned, filled, removed or left in such a

way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (Res., Feb. 4, 1963, sec. 75.)

Section 440. Same; charge.

The town may make a charge, the amount to be determined by the Council, for each connection made to the town's water or sewer mains. This charge shall be uniform throughout the town, but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made. (Res., Feb. 4, 1963, sec. 76.)

Section 441. Improper uses.

In order to prevent any leakage or waste of water or other improper use of the town's water system or sewage disposal system, the town may require such changes in plumbing, fixtures, or connections as it deems necessary to prevent such waste or improper use. (Res., Feb. 4, 1963, sec. 77.)

Section 442. Private systems.

The town may by ordinance provide that no water supply, sewerage, or storm water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution, or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health, and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the town. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (Res., Feb. 4, 1963, sec. 78.)

Section 443. Extensions beyond boundary.

The town shall have the power to extend its water or sewerage systems beyond the town limits. (Res., Feb. 4, 1963, sec. 79.)

Section 444. Right of entry.

Any employee or agent of the town, while in the necessary pursuit of his official duties with regard to the water or sewage disposal systems operated by the town, shall have the right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant, or person in possession, upon any premises and into any building in the town or in the county served by the town's water or sewage disposal system. Any restraint or hindrance offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, may, by ordinance, be made a misdemeanor. (Res., Feb. 4, 1963, sec. 80.)

Section 445. Water; pollution of supply.

No person shall do anything which will discolor, pollute, or tend to pollute any water used or to be used in the town water supply system. Any violation of the provisions of this section shall be a misdemeanor. (Res., Feb. 4, 1963, sec. 81.)

Section 446. Same; contracts.

The town, if it deems it advisable, may contract with any party or parties, inside or outside the town, to obtain water or to provide for the removal of sewage. (Res., Feb. 4, 1963, sec. 82.)

Section 447. Charges.

The town shall have the power to charge and collect such service rates, water rents, ready-to-serve charges, or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the Clerk-Treasurer, and if bills are unpaid within thirty days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as town taxes or by suit at law. (Res., Feb. 4, 1963, sec. 83.)

Section 448. Exceptions.

The provisions of this subtitle shall not extend to any town located in a sanitary district or special tax area or district authorized to discharge the powers provided in this subtitle, as to the particular powers included in the authorization. (Res., Feb. 4, 1963, sec. 84.)

Special Assessments

Section 449. Powers.

The town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction, of water mains, sanitary sewer main, storm water sewers, curbs, and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project. (Res., Feb. 4, 1963, sec. 85.)

Section 450. Procedure.

(a) *Listed.* The procedure for special assessments, wherever authorized in this subtitle, shall be as follows:

(b) *Cost assessed.* The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Council.

(c) *Same; maximum.* The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(d) *Classes of property.* When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

(e) *Notices.* All special assessment charges shall be levied by the Council by ordinance. Before levying any special assessment charges, the Council shall hold a public hearing. The Clerk-Treasurer shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed project and special assessment. The notice shall state the time and place at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The Clerk-Treasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the Clerk-Treasurer shall have completed publication and service of notice as provided in this section. Following the hearing the Council, in its discretion, may vote to proceed with the project and may levy the special assessment.

(f) *Appeals.* Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for the County within ten days after the levying of any assessment by the Council.

(g) *Payment.* Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten years, and in such manner as the Council

may determine. The Council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Council.

(h) *Due date.* All special assessment installments shall be overdue six months after the date on which they became due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

(i) *Collections.* All special assessments shall be billed and collected by the Clerk–Treasurer. (Res., Feb. 4, 1963, sec. 86.)

Town Property

Section 451. Acquisition; possession; disposal.

The town may acquire real, personal, or mixed property within the corporate limits of the town for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease, or otherwise dispose of any property belonging to the town. All municipal property, funds, and franchises of every kind belonging to or in the possession of the town (by whatever prior name known) on March 26, 1963, are vested in the town, subject to the terms and conditions thereof. (Res., Feb. 4, 1963, sec. 87.)

Section 452. Condemnation.

The town shall have the power to condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within the corporate limits of the town, for any public purpose. Any activity, project, or improvement authorized by the provisions of this subtitle or any other State law applicable to the town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceedings shall be that established in Article 33A of the Annotated Code of the Public General Laws of Maryland (1957 Edition, as amended), title “Eminent Domain”. (Res., Feb. 4, 1963, sec. 88.)

Section 453. Town buildings.

The town shall have the power to acquire, to obtain by lease or rent, to purchase, construct, operate, and maintain all buildings and structures it deems necessary for the operation of the town government. (Res., Feb. 4, 1963, sec. 89.)

Section 454. Protection of town property.

The town shall have the power to do whatever may be necessary to protect town property and to keep all town property in good condition. (Res., Feb. 4, 1963, sec. 90.)

General Provisions

Section 455. Oath of office.

(a) *Text.* Before entering upon the duties of their offices, the Mayor, the Councilmen, the Clerk–Treasurer, the members of the Board of Supervisors of Elections, and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe the following oath or affirmation: “I,, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of, according to the Constitution and Laws of this State.”

(b) *How taken.* The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for Allegany County or before one of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor. (Res., Feb. 4, 1963, sec. 91.)

Section 456. Surety bonds.

The Clerk–Treasurer and such other officers or employees of the town as the Council or this subtitle may require, shall give bond in such amount and with such surety as may be required by the Council. The premiums on such bonds shall be paid by the town. (Res., Feb. 4, 1963, sec. 92.)

Section 457. Prior rights and obligations.

All right, title, and interest held by the town or any other person or corporation on March 26, 1963, in and to any lien acquired under any prior Charter of the town, are hereby preserved for the holder in all respects as if this subtitle had not been adopted, together with all rights and remedies in relation thereto. This subtitle shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing on March 26, 1963. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this subtitle, shall be instituted, proceeded with, and prosecuted to final determination and judgment as if this subtitle had not become effective. (Res., Feb. 4, 1963, sec. 93.)

Section 458. Misdemeanors.

Every act or omission which by ordinance, is made a misdemeanor under the authority of this subtitle, unless otherwise provided shall be punishable upon conviction before any trial magistrate or in the Circuit Court for the county within which the offense is committed by a fine not exceeding one hundred dollars (\$100.00) or imprisonment for thirty days in the county jail, or both, in the discretion of the court or trial magistrate. The party aggrieved shall have the right to appeal as is now provided under the general laws of the State. Where the act or omission is of

a continuing nature and is persisted in, a conviction for one offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (Res., Feb. 4, 1963, sec. 94.)

Section 459. Gender.

Whenever the masculine gender has been used in this subtitle, it shall be construed to include the feminine gender. (Res., Feb. 4, 1963, sec. 95.)

Section 460. Effect on existing ordinances.

(a) *Not in conflict.* All ordinances, resolutions, rules, and regulations in effect in the town on March 26, 1963, which are not in conflict with the provisions of this subtitle shall remain in effect until changed or repealed according to the provisions of this subtitle.

(b) *In conflict.* All ordinances, resolutions, rules, and regulations in effect in the town on March 26, 1963, which are in conflict with the provisions of this subtitle [shall] be and the same hereby are repealed to the extent of such conflict. (Res., Feb. 4, 1963, sec. 96.)

Section 461. Separability.

If any section or part of section of this subtitle shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this subtitle nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. (Res., Feb. 4, 1963, sec. 97.)

NOTES

(1) The charter of Lonaconing as it appeared in the 1955 Edition of the Code of Public Local Laws of Allegany County was repealed by the Home Rule Resolution of February 4, 1963, with the new charter being effective on March 26, 1963.

